

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FANTASIA DAWSON,

Plaintiff,

v.

THE KROGER CO., 1160
MORELAND AVE S.E. LLC, JOHN
DOE A-B; and ABC
CORPORATIONS 1-5,

Defendants.

Civil Action File No.:

Removed from DeKalb County State
Court, Civil Action No. 23A02972

JURY TRIAL DEMANDED

DEFENDANTS' NOTICE OF REMOVAL

COME NOW Defendants The Kroger Co. and 1160 Moreland Ave SE, LLC (“Defendants”), by and through undersigned counsel, and show this honorable Court the following:

1.

This action was filed in the State Court of DeKalb County, Georgia, said county being part of the Northern District of Georgia. NDGa. LR 3.1(A), LR App. A, I. This, the Atlanta Division of this Court, is the proper Division for this removal as further set forth below.

2.

The action is a civil action for personal bodily injuries and medical expenses, and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties.

3.

A true and correct copy of all process, pleadings, and orders served upon Defendants in this action is attached hereto as Exhibit “A.”

4.

The matter in dispute exceeds \$75,000.00, the statutory amount in controversy, exclusive of interest and costs, as evidenced by Plaintiff’s *Demand* wherein Plaintiff set forth her demand for \$100,000.00 (Exhibit “B” attached hereto).

5.

(a) At the time of the commencement of this action in the State Court of DeKalb County, and since that time, plaintiff Fantasia Dawson (“Plaintiff”) was and is now, a citizen of Georgia.

- (b) Defendant The Kroger Co. at the time this action was commenced and at the present time, was and still is an Ohio corporation, having its principal place of business located at 1014 Vine St., Cincinnati, Ohio, and is a citizen of Ohio.
- (c) Defendant 1160 Moreland Ave SE, LLC (“1160 Moreland”) at the time this action was commenced and at the present time, was and still is a Florida limited liability company with its principal place of business located at 701 South Howard Avenue, Suite 106-322, Tampa, Florida 33606. The members of 1160 Moreland are Florida citizens. Rolling Greens MHP, L.P. v. Comcast SCH Holdings, L.L.C., 374 F.3d 1020, 1022 (11th Cir. 2004) (“To sufficiently allege the citizenships of these unincorporated business entities, a party must list the citizenships of all the members of the limited liability company”)

6.

The matter in controversy is between citizens of different States and, as outlined above, the amount in controversy exceeds \$75,000.00.

7.

Accordingly, this action, over which the United States District Court for the Northern District of Georgia has original jurisdiction under 28 U.S.C. § 1332, is removable to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441.

8.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. §§ 1441, 1391, and 90(a)(4); see also N.D.G.A. Local Rules LR 3.1(B)(1)(a) and LR App. A, I.

9.

As required by 28 U.S.C. § 1446(d), Defendants shall give written notice hereof to all adverse parties and shall file a copy of this *Notice of Removal* with the Clerk of the State Court of DeKalb County, Georgia.

10.

All defendants consent to this removal.

11.

The instant *Notice of Removal* is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(b)(1).

12.

Furthermore, the instant *Notice of Removal* is timely filed, pursuant to and in accordance with 28 U.S.C. § 1446(c)(1), within one year of the commencement of the above-styled civil action.

WHEREFORE, Defendants request that this action proceed in this Court as an action properly removed to it.

Respectfully submitted, this the 28th day of August, 2023.

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Attorneys for Defendants

CERTIFICATE OF SERVICE AND OF COMPLIANCE WITH L.R. 5.1

This is to certify that on this date, the undersigned filed a true and correct copy of the foregoing pleading with the Clerk of Court using the CM/ECF system

and served all parties of record via electronic service through the CM/ECF system to:

Kristina Ducos, Esq.
THE DUCOS LAW FIRM, LLC
600 Peachtree St. NE, Suite 3710
Atlanta, Georgia 30308

Further, this is to certify that the foregoing pleading complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

Respectfully submitted, this the 28th day of August, 2023.

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